

COMMITTEE ON BILLS ON SECOND READING

November 18, 2003

4:45 PM

Chairman Wihby called the meeting to order.

The Clerk called the roll.

Present: Aldermen Wihby, Sysyn, DeVries, Smith, Forest (late)

Messrs: R. MacKenzie

Chairman Wihby addressed Item 3 of the agenda:

Proposed Policy Re: Petitions for Rezoning.

Mr. MacKenzie stated the Board on a number of occasions had basically asked for a cleaner and more exact process to go through, including reviews by the Solicitor, our office, the Building Department and Planning Board. What you see in the agenda is an actually slightly revised process. I did meet with Aldermen DeVries and Lopez to go over their concerns and did make some changes. Basically the process would be that the City Clerk when they receive any petition would submit it to our office. We would make a technical review to make sure that there is nothing illegal about it and that it meets the Master Plan and we would also ship it off to the Building Department, Solicitor and Planning Board and they would have 30 days to provide comments to the Board. Then the full Board, if it came back that from a technical standpoint there was no problem, would set a public hearing date and then go to Bills on Second Reading. I would suggest after continuing to consider it...one of the changes I suggested I think I would like to go back to a shorter time-frame. If you have this proposed policy in front of you, Item 2 has a change that indicated that the Planning Department would provide a technical report within 30 days. I think in looking at the process with Carol that I would like to go back to 15 days. I think I was just trying to get a little bit more time for my office to get the work done but frankly from a scheduling standpoint it would work better at 15 days then 30. I would be happy to answer any questions.

Alderman DeVries asked so the 15 days do you think that is going to allow the Planning Board to interface in a meeting and have discussion and give feedback.

Mr. MacKenzie answered what would happen is the 15 days would be for my technical comments – is it legal and does it meet the Master Plan. The Planning Board in the next item would still be 30 days.

Chairman Wihby asked so what are we saying. We could have a petition where somebody wants to rezone a parcel and it is going to take four or five months?

Mr. MacKenzie answered actually the current average right now is six months.

Chairman Wihby asked and aren't we just making it longer with this.

Mr. MacKenzie answered I think given that we have to provide a technical report now within 15 days and with the recommended comment periods that this process will actually be quicker. For example, you won't get three months down the line and find out that the Solicitor has legal reservations. They have to comment within 30 days. You won't find later on that the Planning Board has some issues. Frankly, I think that this particular process will speed it up and that you should have more applications less than six months.

Alderman DeVries moved to approve the new policy with the change to Item 2 as noted by the Planning Director. Alderman Sysyn duly seconded the motion. Chairman Wihby called for a vote. There being none opposed, the motion carried.

Chairman Wihby addressed Item 4 of the agenda:

Ordinance Amendment:

“Amending Sections 33.024, 33.025 and 33.026 (Laborer – Drop Off Facility) of the code of Ordinances of the City of Manchester.”

On motion of Alderman Smith, duly seconded by Alderman DeVries, it was voted that the ordinance ought to pass.

TABLED ITEMS

5. Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to B-2 (General Business) by extending the B-2 zone district to the center line of Huse Road and Merrill Road, including parcels identified as TM 666, Lots 2B, 6, 6A, 7, 8, 9 & 9A.”

(Tabled 10/14/2003 pending further review by Planning regarding traffic impact.)

On motion of Alderman DeVries, duly seconded by Alderman Smith it was voted to remove this item from the table.

Alderman DeVries stated I am hoping that we can have a pretty thorough discussion on this today. I know that you and I have spoken in reference to the rezoning and this is the Harvey Industries rezoning on Huse Road. I guess the place to start would be this is a proposed rezoning from Industrial to B-2. Just to clarify because I do know that I have many constituents planning on watching this meeting tonight so I am looking to get a thorough discussion for their benefit. If you could start basically talking about what you think is going to happen with this property if it is left industrial and make the comparison to B-2 pros and cons and if I feel that I need to direct questions to fill in that information I will. I will let you start with that.

Mr. MacKenzie responded let me try to go into a little bit more detail. Let's assume that the property was not rezoned to business and it stayed industrial and that at some point Harvey Industries moved its main operation out of there. I would normally look to other areas that are somewhat similar to see what type of uses might come in. For example, the industrial area to the west of South Willow Street in the area where it used to be Public Service Company, which is west of Sam's Club and Shop n'Save, that area at one time was set-up for rezoning to B-2 but that was not passed by the Aldermen. You still have industrial uses going in there but some of those are fairly intensive. There is a new trucking operation that went in to where Public Service Company used to be. So in that particular case there is a lot of truck traffic in the neighborhood. You also have an auto body shop that went in. You have Associated Grocers, which is a wholesale operation with a little bit of retail. Also within the zone you have GTE Sylvania, which is actually one of the larger employers in the City with about 800 employees. Those would likely be the types of uses that you would see on this site if it was not zoned to business. A couple of those uses might be somewhat more difficult. The trucking operation for example would have significantly more trucks around the area than Harvey Industries does now. Whether or not those go up into the residential neighborhood...it is likely that some percentage would filter up through the residential neighborhood. If you had a much more employee intensive industrial operation, such as GTE Sylvania you don't have a lot of traffic throughout the day but you have fairly significant traffic at peak hours so if that was GTE Sylvania you would have a fairly high peaking both in the morning time and the evening. There are probably other uses that I haven't considered that might go in there. It does have a power substation there and it is not too far from the gas line so I know there has been discussion in the past about a power

substation or a power generating facility. From its geographic location that would be a good location for that type of facility.

Alderman DeVries stated talking about the different industrial uses that you mentioned based on the dimensions of the size of those properties do you feel that it is realistic to expect that there could be a trucking operation going in there or Sylvania.

Mr. MacKenzie responded yes. The building is actually larger than the Sylvania facility. The site is somewhat larger. The building is larger than the trucking operation certainly but there are a couple of different buildings on the site so it might actually be split up into a couple of different uses.

Alderman DeVries asked can you talk about conditional use within the industrial zone – allowed uses other than pure industrial as we had spoken of.

Mr. MacKenzie answered sure and let me just get out my ordinance so I can make sure that I quote the proper uses. There are selected restaurant and retail uses that are allowed in that zone already so by conditional use you could have a convenience drug store or other convenience uses. You could have a restaurant that is less than or larger than 8,000 square feet. You could have hotel uses allowed or certain restaurants by right. You could have certain offices like banking, financial and professional offices that would be by conditional use within the district. Medical and dental laboratories. Research and development. Let me just check the other...

Alderman DeVries interjected the restaurants you said would be limited in size. I know the retail is limited to 8,000. Is it specific saying that restaurants be limited?

Mr. MacKenzie stated you can have establishments up to 5,000 square feet by right but you could have larger than that by conditional use permit. Just for point of reference, the Olive Garden restaurant is slightly over 5,000 square feet just to give you a perspective.

Alderman DeVries asked was that put in by conditional use.

Mr. MacKenzie answered yes.

Alderman DeVries asked so that is a likely use that we could see there.

Mr. MacKenzie answered yes.

Alderman DeVries asked and what kind of impact would that have as far as trip generation. Somewhat equivalent to retail or better?

Mr. MacKenzie answered for the square footage it is actually much more intensive than let's say a larger strip shopping center. Olive Garden is a relatively small square footage but that is a very intense trip generation. Even though some of those people are in the traffic stream, there is still a lot of people, particularly in the evening, that go to Olive Garden.

Alderman DeVries asked if you are allowed to give any kind of a guess is that what you think would be a likely use of that property if it stays industrial based on the other restaurants in the area. I am just trying to get a feel for the choices we are making here.

Mr. MacKenzie answered my best guess is that the site or probably a good portion of the building might be demolished and it might be split up into a couple of different parcels so it is possible that you could see a restaurant on the parcel closer to South Willow Street and perhaps a more industrial operation, small manufacturing or trucking facility on the other part.

Alderman DeVries asked let's talk about B-2. They have given us a preliminary traffic report. When we talk B-2 we are talking based on the size of the property up to 125,000 square feet. What is that equivalent to? Give us some other examples and do you see any pros or cons based on B-2 versus Industrial?

Mr. MacKenzie answered it is roughly the same size. 120,000 square feet would be roughly the size of the Northside Plaza, which has Hannaford Brothers and a few other smaller stores there so at least to give you a perspective on size. That is a fairly large trip generator. It is fairly spread out through the day. Probably the peak hour then would be Saturday as opposed to evening peak hours at the current operation. That is probably the worst con is that you would have more weekend traffic as opposed to weekday traffic. The plus is that you would not have intensive trucking operations. I mean you do have delivery trucks but you would not have the trucking associated with either a manufacturing plant or a warehouse facility or a trucking terminal and I don't believe any type of generating facility would be allowed in the B-2 district.

Alderman DeVries asked the peak power you are saying.

Mr. MacKenzie answered correct the power generation facility.

Alderman DeVries asked so when we are talking traffic I know we have had some discussions about potential traffic calming and what could be accomplished. Do you have some specific ideas on what could be accomplished?

Mr. MacKenzie answered I think in general my feeling towards rezoning is that likely this particular site...its future is likely towards the business B-2 given its proximity to the highway interchange and the Mall of New Hampshire. It might avoid some problem type uses that the neighborhood might object to more. My primary concern is related to the traffic that might go up Huse Road. There will no doubt be some additional traffic. Most of the traffic, the majority, will still be going into South Willow Street but there will be some that skirt that area and use the residential neighborhood. That would be my primary concern and what I would probably suggest is that the Board look at some type of...more and more cities are looking at traffic calming. Concord now has a very intensive traffic calming program going on and if the Board were to approve this I would hope that they would perhaps put anybody purchasing the property on notice that they would expect some type of traffic improvements to slow down the traffic on Huse Road and to avert or divert some of those people who would be taking shortcuts through the neighborhood. I know that the property across the street a few years ago when they built the Home Life and Pizzeria Uno they did contribute a fairly significant...I think at that time it was like \$250,000 to the City to work on traffic improvements in that area. I would think that the Board would perhaps go on record if they rezoned it that if and when the property is rezoned and a development proposal came in that there would be traffic improvements that would be born by the developer to protect the residential neighborhood.

Alderman DeVries asked when you talk about traffic calming what are you referencing because we both know that the City has moved away from using speed bumps, which was the previous traffic calming technique. What else is out there?

Mr. MacKenzie replied I have just been looking at what they have done in Concord and Cambridge, MA and basically they use neck downs. Concord has been using small S curves that are put in the road to slow traffic and that actually has been fairly successful. So basically slowing down the traffic so that you don't get up a head of steam and find it easy to shortcut around the existing South Willow Street.

Alderman DeVries asked do you think it is realistic that something like that could be utilized on Huse Road.

Mr. MacKenzie answered I believe that some type of traffic calming could be put on Huse Road that will help with the traffic impact, yes.

Alderman DeVries stated let's talk a little bit about the landscaping benefits that we might see with B-2 that we wouldn't see if left Industrial. If we were talking a larger corporate entity coming in it is my understanding or I have been told that it is likely to be a better presentation or the neighborhood. That they have more money and they put more money into the project and they pay more attention to buffering and landscaping and it is a better looking project. Do you agree with that?

Mr. MacKenzie responded given what someone might have to pay for the parcel I would expect that there might be an upper end retail such as Old Navy or something like that and they would pay a lot of attention to the landscaping. The Planning Board has worked with groups like the Olive Garden Restaurant and the Marriott Corporation and those, I think, have come out very nicely with the landscaping and the trees and the green spaces, as well as the Home Life building that came out very nicely. I would expect that the environment would improve. It would be a more aesthetically pleasing project than if it was industrial.

Alderman DeVries asked is there anything additional that Harvey Industries or their representatives would like to bring forth. Are there any additional comments?

Mr. MacKenzie stated I did want to comment that I believe Harvey Industries is an excellent business for Manchester. It is a great manufacturing firm and distribution firm. I know if they decide to leave the site it is because they want to expand more but I would certainly hope the City would bend over backwards to try to see if they could relocate them within Manchester. It may not be possible in the end because they might need a larger property but I would certainly hope that the City would at least make the effort to keep them in the City if at all possible.

Alderman Smith stated apparently we are coming down to one thing, traffic and I think that is the main concern of the residents and so forth. If you know the area I have to agree with my colleague that Huse Road will be used and that is why if you remember when the Mall of New Hampshire was built the residents in the area had those gates put up so the traffic wouldn't go out that way. There is no question in my mind that traffic would be greatly impacted. Do you think we could put in a stipulation that if anybody is going to build that they have to address the traffic, the road, curbs and so forth like an impact fee?

Mr. MacKenzie responded there is a court case in the State that has basically said that a town or city cannot extract a traffic impact fee from developers. I would certainly hope that any developer and perhaps the Board would certainly encourage that if they want to go with a new operation that is going to have traffic

that they would voluntarily provide traffic improvements to help solve the problem.

Alderman DeVries stated I would ask for the indulgence once again of the Committee because certainly I have had numerous conversations with people at home who were aware that this meeting was coming up tonight and were hoping to be able to hear the conversation one last time before they had to make their final decision and I am expecting feedback. My thought was that we could send the report to the full Board from the Committee but maybe within the report stipulate that it not be brought up at tonight's meeting but that it be brought up at or next Board meeting thus allowing me the opportunity to get that critical feedback from constituents trying to make a difficult choice because I think they are looking at...certainly peak power is nothing that pleases the neighborhood and actually maybe you could address what sort of controls would we have if peak power did decide to land? It is not going to come back before the full Board of Mayor and Aldermen is it? To the Planning Board?

Mr. MacKenzie responded yes it would go to the Planning Board.

Alderman DeVries asked would they have any right where that is properly zoned to deny peak power happening there.

Mr. MacKenzie answered there is some basis for denial that the Planning Board has but it is controlled by State statute. The Board of Mayor and Aldermen has a lot more subjective ability to consider these things. The Planning Board can only weigh certain items under State statute.

Alderman DeVries asked so the privilege would be that we do send the report to the full Board so that it clears Bills on Second Reading to be brought up at our next Board meeting but not this evening. That would allow me critical feedback and I would hope that the rest of this Committee would agree to that.

Chairman Wihby asked what you are looking to do is bring the Committee report in tonight and then table it at the Committee level.

Alderman DeVries responded my understanding is it could be reported out at the first meeting in December as well. It doesn't have to be reported for tonight.

Chairman Wihby stated I understood you to say bring it up tonight but don't vote on it but you are just saying don't even bring it up tonight but vote on it and bring it up in December so it won't come up tonight at all.

Alderman DeVries answered correct.

Chairman Wihby asked is that okay.

Deputy Clerk Johnson yes you can do it either way. We have no motion on the floor at this point.

Chairman Wihby stated but we can go two ways. We can vote to accept it today and it will come up in December or vote on it today to have the Committee report come in at the Board meeting tonight and then table it until the next meeting. I need a motion.

On motion of Alderman Sysyn, duly seconded by Alderman Smith, it was voted to recommend that the Ordinance ought to pass and that the Board of Mayor and Aldermen endorse seeking to have any developer of the rezoned parcel pay for any road or traffic improvements made necessary by the development to protect the neighborhood.

Chairman Wihby asked now do you want to send this report to the full Board tonight or at the first meeting in December.

The Committee agreed to hold the report until the first Board meeting in December.

Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.”
(Tabled 10/14/2003)

“Amending the Zoning Ordinance of the City of Manchester by amending Article 5, Section 5.10, G-6 of the Table of Principal Uses by inserting a “P” in the “IND-General Industrial/Industrial Park” column of item G-6 of the table.”
(Tabled 10/14/2003)

On motion of Alderman Sysyn, duly seconded by Alderman Forest it was voted to remove this item from the table.

Deputy Clerk Johnson stated there are two handouts that are being distributed, which the Planning Director had shared with our office about an hour or so ago.

They are addressing...as I understand it there have been questions raised relative to the 10 acre issue and I would let Bob explain but he is submitted one that clarifies the language as I understand it and one that would also allow Old Wellington Road...

Mr. MacKenzie interjected the Solicitor's Office determined from the language...this particular proposal is talking about an expansion of an existing district but the portion of the lot is less than 10 acres and based upon the wording of the current ordinance the Solicitor felt that it did not meet the wording. I think it was the...from our perspective it was the intent that you would have a larger district but you could expand it and we were trying to come up with language, which we provided here that would clarify that intent.

Chairman Wihby asked so what you are asking us to do is actually two different things.

Mr. MacKenzie answered yes totally separate.

Chairman Wihby stated the first sheet says amending the zoning ordinance. That is where it says 10 acres or more and it doesn't have to be a 10-acre piece. So that is really on its own?

Mr. MacKenzie answered correct.

Chairman Wihby asked and that doesn't have anything to do with the two items listed under Item 6. Well it does but it is sitting by itself because it affects more than just Item 6.

Mr. MacKenzie answered correct and the other item is related to again a separate subject, which is the Old Wellington Road parcel. If the Board wishes to sell that they would have to rezone it and we have provided the short title.

Chairman Wihby asked the first sheet that changes the 10 acres does that affect the Candia one too.

Mr. MacKenzie answered yes.

Chairman Wihby asked so both of those are affected by the one amendment.

Mr. MacKenzie answered yes.

Deputy Clerk Johnson stated if the Committee wanted to do something with this the recommendation to the Board...we would submit it to the Board as its first

reading and recommend that it be referred out to public hearing and set a public hearing date for more than 30 days out to allow for the Planning Board actions and so forth that the Committee desires now.

Chairman Wihby asked now Carol we are talking about the first one right.

Deputy Clerk Johnson answered yes but the second one would require the same process as well.

“Amending the Zoning Ordinance of the City of Manchester by clarifying Section 4.01 Establishment and Purpose of Districts subsection (5) Residential Suburban Multifamily District (R-SM) by clarifying the purpose of the district and the minimum size.”

On motion of Alderman Forest, duly seconded by Alderman DeVries it was voted to approve the zoning amendment and recommend that it be referred to public hearing.

“Amending the Zoning Ordinance of the City of Manchester by extending the R-SM Zoning District to include the full extent of a parcel of land on Old Wellington Road (Map 645, Lot 10) currently zoned R-1A.”

On motion of Alderman Forest, duly seconded by Alderman DeVries it was voted to approve the zoning amendment and recommend that it be referred to public hearing.

On motion of Alderman Forest, duly seconded by Alderman DeVries it was voted to place the two ordinances under Item 6 back on the table.

7. Ordinance:

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”
(Tabled 11/06/2002)

This item remained on the table.

8. Ordinances:

“Amending Chapter 130: General Offenses of the Code of Ordinances of the City of Manchester by repealing Section 130.10 Tattooing in its entirety.”

(Tabled 07/16/2002)

“Amending the Zoning Ordinance of the City of Manchester to include a new use group category for Tattoo Parlors, inserting changes to Table 5.10, adding supplementary regulations for tattoo parlors, and providing for location restrictions so as to prohibit such parlors within 600 feet from each other and not less than 500 feet from a Residential or Civic Zone.”

(Tabled 07/16/2002)

This item remained on the table.

There being no further business, on motion of Alderman Smith, duly seconded by Alderman DeVries it was voted to adjourn.

A True Record. Attest.

Clerk of Committee